

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
General Comments	Employer sets up IRAs for eligible employees and makes contributions to the IRAs. Amount of the contributions can be discretionary.	SEPs that also allow employees to make salary reduction contributions. SARSEPs are no longer available to employers who did not already have one as of 12/31/96.	Generally replaces SARSEPs. Allows for salary reduction contributions. Requires employer to commit to specified rates of matching or nonelective contributions.
Applicable Code Sections	<p>408(k) Generally, IRAs (set up by or for eligible employees) that satisfy the requirements of: 408(k)(2), (3), (4) and (5); and if the plan is top-heavy, the requirements of 416(c)(2). See 408(k)(1).</p> <p>408(k)(2)- Participation 408(k)(3)- Nondiscrimination 408(k)(4)- Withdrawals 408(k)(5)- Written allocation formula</p>	<p>SEP requirements plus 408(k)(6). A SEP may include a salary reduction arrangement under which the employee may elect to have the employer either make elective contributions under the SEP on behalf of the employee or make payments to the employee directly in cash. The salary reduction arrangement must satisfy the provisions of 408(k)(6). Other provisions of 408(k) apply to all SEPs, including SARSEPs.</p>	<p>408(p) Generally, IRAs referred to as "simple retirement accounts" that satisfy the requirements of: 408(p)(3), (4) and (5); and only allow contributions pursuant to a "qualified salary reduction arrangement." See 408(p)(1). "Qualified salary reduction arrangement" – The arrangement includes deferrals and the employer contributions required under the arrangement. See 408(p)(2).</p> <p>408(p)(3)- Vesting 408(p)(4)- Participation 408(p)(5)- Administrative requirements</p>

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
Eligible Employer	No restriction	<p>Salary reduction arrangements cannot be part of a SEP after 12/31/96. Exception: Salary reduction arrangements already in existence as of 12/31/96 can continue. See 408(k)(6)(H).</p> <p>Salary reduction arrangements not available for a SEP if there are more than 25 eligible employees in the previous year. See 408(k)(6)(B).</p> <p>State/local governments and tax-exempt organizations cannot sponsor a SARSEP. See 408(k)(6)(E).</p>	<p>An employer with no more than 100 employees who received at least \$5,000 of compensation from the employer during the preceding year.</p> <p>2-year grace period - An employer that previously maintained a SIMPLE IRA plan is treated as satisfying the 100-employee limitation for two calendar years following the calendar year in which it last satisfied the 100-employee limitation. See 408(p)(2)(C)(i). Employer cannot sponsor another qualified plan. See 408(p)(2)(D).</p> <p>"Excludable employees" included in 100 employee limitation. Employees include all employees employed at any time during the calendar year. See Notice 98-4, B-1.</p>

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
Participation	<p>Cannot be less generous than:</p> <p><u>Age</u> - 21</p> <p><u>Service</u> - Performed service for the employer during any 3 of the preceding 5 years.</p> <p><u>Compensation</u> - At least \$300 in compensation (subject to COLA adjustment) for the year (2001, 2002, 2003= \$450). See 408(k)(2).</p> <p>May exclude - collectively bargained (CBA) employees whose retirement benefits have been subject to good faith bargaining; nonresident aliens with no US income (408(k)(2); 410(b)(3)(A)/(C) cross reference in 408(k)(2)).</p>	Same rule as SEPs.	<p>Cannot be less generous than:</p> <p><u>Age</u> - n/a</p> <p><u>Service</u> - n/a</p> <p><u>Compensation</u> - an employee who (1) received at least \$5,000 in compensation from the employer during any 2 preceding years; and (2) is expected to receive at least \$5,000 in compensation in the current year. Can exclude- CBA employees, nonresident aliens as provided for in 410(b)(3). See 408(p)(4).</p>
Vesting	<p>Full and immediate - (408(a)(4)/408(b)(4))</p> <p>All contributions are made to IRAs. IRAs are either: Individual Retirement Accounts - defined in 408(a) or Individual Retirement Annuities - defined in 408(b). 408(a)(4) requires an employee to be fully vested in his/her Individual Retirement Account. 408(b)(4) requires an employee to be fully vested in his/her Individual Retirement Annuity.</p>	Same rule as SEPs	Full and immediate - (408(p)(3))

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
Coverage	<p>No "coverage" type test. If an employee satisfies the eligibility provisions of the SEP, the employee participates. No eligibility requirements in addition to the conditions provided for in 408(k)(2) (regarding participation) can be imposed. "Employee" includes all employees by application of the controlled group/affiliated service group/leased employee rules. See 414(b), (c), (m)(4)(B), (n)(3)(B). Note - no "1,000 hours of service"; "last day of employment" requirements.</p>	<p>Same rule as SEPs plus at least 50% of eligible employees must make deferrals for a year.</p>	<p>No "coverage" type test. "Employee" includes all employees by application of the controlled group/affiliated service group/leased employee rules. See 414 (b), (c), (m)(4)(B), (n)(3)(B). Note - no "1,000 hours of service"; "last day of employment" requirements.</p>

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
Non-discrimination	<p>Cannot discriminate in favor of highly compensated employees (HCEs). General rule - contribution allocation formula is compensation to compensation. Variations - (1) permitted disparity under 401(l) is also allowed. See 408(k)(3). (2) allocation formulas where contribution rates decrease as compensation levels increase are allowed. See Proposed Regulation 1.408-8(c)(1).</p>	<p>Salary deferrals - must satisfy requirements of 408(k)(6)(A) i.e., (1) choice of salary reduction or direct cash payment must be provided to employees, (2) at least 50% of eligible employees must elect to have payments made to the SEP, and (3) the deferral percentage for any HCE cannot be more than 1.25 times average deferral percentage for non-HCEs. The employer must notify any HCE with "excess contributions" (on account of failing the "1.25 test") within 2.5 months of the close of the year to avoid the 4979 tax; and by the close of the following plan year to preserve tax deferred status of deferrals. See Regulation 54.4979-1(a)(4). Employee's deferral percentage = deferral to the SEP divided by compensation (not to exceed 401(a)(17) limit). See 408(k)(6)(D) and (k)(8). 401(a)(17) limit - 2001 = \$170,000, 2002 & 2003 = \$200,000. If other employer contributions - same rule as SEPs.</p>	<p>Only deferrals and employer matching or nonelective contributions are allowed. See 408(p)(1) and 408(p)(2).</p>

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
Contribution Limits	<p>Employer contributions - contributions on behalf of an employee cannot exceed the lesser of (1) 25% of compensation or (2) the 415(c) dollar limit (2002 and 2003 = \$40,000). Pre-2002 limit = lesser of 15% of compensation or the 415(c) dollar limit (2001 = \$35,000). See 402(h)(2). Also note - dollar limit for HCE is reduced in an integrated plan by the amount of his/her allocation that is attributable to permitted disparity. See 402(h)(2)(B), 408(k)(3)(D), and 401(l)(2).</p>	<p>Elective deferrals - 402(g) limits apply. See 408(k)(6)(A). The 402(g) limits are in addition to the nondiscrimination limitations on HCEs, "1.25 test". See narrative for nondiscrimination and 408(k)(6)(A). Applicable 402(g) limits - 2001=\$10,500 2002=\$11,000 2003=\$12,000 414(v) catch-up contribution limits in addition to 402(g) limits for participants who, by the end of the year, are at least 50 years old: 2002 = \$1,000 2003 = \$2,000 2004 = \$3,000 2005 = \$4,000 2006 = \$5,000 If other employer contributions - same rule as SEPs.</p>	<p>Elective deferrals - Limited to dollar limit provided for in 408(p)(2)(E), i.e., 2001 = \$6,500, 2002 = \$7,000, 2003 = \$8,000, 2004 = \$9,000, and 2005 = \$10,000. Similar to SARSEPs, 414(v) catch-up contribution limits also apply for participants who, by the end of the year, are at least 50 years old; except the catch-up amounts are half of the SARSEP amounts. Employer contributions - either (1) matching contributions equal to 100% of deferrals up to a maximum of 3% of compensation, or (2) nonelective contributions equal to 2% of compensation (not to exceed 401(a)(17)) for all eligible employees. The matching contribution 3% limit can be reduced for a calendar year to a limit not below 1%, if the limit is not reduced for more than 2 years out of the 5 year period. The 5 year period includes the year of election. Also, the "3% limit" can only be reduced if employees are notified within a reasonable time before the "60-day" election period during which employees can make deferrals. See 408(p)(2)(A),(B),(C)(ii).</p>

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
With- drawals	Withdrawals must be permitted. See (408(k)(4). Income tax and 72(t) apply.	Same rule as SEP, but adverse tax consequences if distribution before 1.25% test performed. See 408(d)(7)(A).	Withdrawals must be permitted. See Notice 98-4 F2. Income tax and 72(t) apply. Note: 72(t) tax is 25%, instead of 10% if withdrawals are made during the 2 year period beginning on the date the employee first participated in the SIMPLE IRA Plan. See 72(t)(6).
Written Allocation Formula	Written allocation formula should specify (1) the requirements that an employee must satisfy in order to receive an allocation, and (2) the manner in which the amount allocated is computed. See 408(k)(5).	Same rule as SEP – applies to other employer contributions, if any.	Plan formula may only consist of the permitted matching or nonelective contributions. See 408(p)(2).
415 Limits Apply?	Yes. See 415(a)(2)(C).	Yes. See 415(a)(2)(C).	No. See 415(a).
402(g) Limits Apply?	n/a	Yes. See 402(g)(3)(B).	Yes. See 402(g)(3)(D).
Top- Heavy Rules Apply ?	Yes. See 416(i)(6).	Yes. See 416(i)(6).	No. See 416(g)(4)(G).

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
Administrative Requirements Imposed By Statute	<p>Yes, see 408(i) and 408(l) for reporting and disclosure requirements to individual participants and the Service. Detailed guidance on the reporting and disclosure requirements can be found in Regulation 1.408-6 and Proposed Regulation 1.408-5. The Department of Labor also has certain disclosure requirements for SEPs.</p>	<p>Yes, same as for SEPS.</p>	<p>Yes. See 408(p)(5). (1) Elective deferrals must be deposited no later than 30 days after the last day of the month with respect to which contributions are to be made. (2) Matching/nonelective contributions must be made no later than the due date for filing the employer's income tax returns, including extensions, for the taxable year that includes the last day of the calendar year for which contributions are made. (3) During the 60-day period before the beginning of any year (and the 60-day period before the first day that an employee is first allowed to participate) an employee must be afforded the opportunity to elect to participate in the salary reduction arrangement or to elect to modify the amounts contributed to such arrangement. (4) An employee may elect to terminate participation in such arrangement at any time during the year. The arrangement may provide that the employee may not elect to resume participation until the beginning of the following year. Also, see Notice 98-4 section G for employer administrative and notification requirements; and section H for trustee administrative requirements. The Department of Labor also has certain disclosure requirements for SIMPLE IRA plans.</p>

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
Plan Documents	<p>IRS model - Form 5305-SEP. Restrictions – (1) cannot be used if employer maintains another plan, (2) can only provide compensation-to-compensation allocation formula.</p> <p>Other alternative – IRS approved prototype; typically sponsored by a financial institution.</p>	<p>IRS model - Form 5305A-SEP. If employer also wants to provide for employer contributions, employer can adopt Form 5305-SEP in conjunction with the Form 5305A-SEP.</p> <p>Other alternative – IRS approved prototype; typically sponsored by a financial institution.</p> <p>Note: SARSEP documents only apply to SARSEPs that were in existence as of 12/31/96.</p>	<p>IRS model forms - 2 options:</p> <p>(1) Form 5305-SIMPLE - designated financial institution (DFI) receives all employer contributions for deposit to SIMPLE-IRAs for employees.</p> <p>(2) Form 5304-SIMPLE - no DFI. Employee can choose the financial institution for SIMPLE-IRA contributions.</p> <p>Other alternative - IRS approved prototype; typically sponsored by a financial institution.</p>

Comparison of SEPS, SARSEPs and SIMPLE IRA Plans

	SEP	SARSEP	SIMPLE IRA Plan
IRA Document	In addition to the plan document, each employee has to execute a traditional IRA document. The document sets up the SEP-IRA to accept contributions for the employee. The IRS has issued two model documents for traditional IRAs (that can be used as SEP-IRAs). The two model documents are Form 5305 for a trustee IRA and Form 5305-A for a custodial account. Other alternative - Prototype document; typically developed by a financial institution.	Same as SEP	In addition to the plan document, each employee has to execute a "SIMPLE IRA" document. The document sets up the SIMPLE IRA to accept contributions made under a SIMPLE IRA plan. IRS has issued two model documents for SIMPLE IRAs: Form 5305-S is for a trustee IRA and a Form 5305-SA is for a custodial account. Other alternatives- Prototype document; typically developed by a financial institution.
Voluntary Compliance Options Under Rev. Proc. 2002-47	VCSEP	VCSEP	Closing Agreement